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SECRETARY OF STATE

Docket #: 17.17-159607A

Respondent agrees that presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should the Consent Order not be ratified. Likewise, all matters, admissions, and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless

independently entered into evidence or introduced as admissions.

The parties agree that the statements contained herein are not intended to and do not constitute by Respondent any admission of, or agreement with, the truth of the facts alleged, the conclusions set forth in, or the underlying findings of the deficiencies in question.

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## JURISDICTION

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The Board has the power to license and regulate hospitals, recuperation centers, nursing homes, homes for the aged, residential HIV supportive living facilities, assisted-care living facilities, home care organizations, residential hospices, birthing centers, prescribed child care centers, renal dialysis clinics, ambulatory surgical treatment centers, outpatient diagnostic centers, adult care homes, and traumatic brain injury residential homes. Tenn. Code Ann. § 68-11-202. Further, TENN. CODE ANN. § 68-11-202(b)(1)(A) gives the Department the authority to conduct reviews of assisted-care living facilities to determine compliance with fire and life safety code regulations promulgated by the Board.

Tenn. Code Ann. § 68-11-210 provides that the Department shall conduct on-site inspections and investigations as may be necessary to safeguard and ensure at all times, the public's health, safety, and welfare. The Board has the authority to suspend or revoke the license of any facility licensed under Tenn. Code Ann. § 68-11-201 *et. seq.* The Board may also place a facility on probation. Tenn. Code Ann. § 68-11-207(f)(2). If the Board determines during or at the end of the probation that the facility is not taking steps to correct non-compliance or otherwise not responding in good faith pursuant to the plan of correction, the board may take any additional action as authorized by law. Tenn. Code Ann. 68-11-207(f)(8).

The Board is also authorized to establish a system for assessing civil monetary penalties for assisted-care living facilities, adult care homes and traumatic brain injury residential homes that are in serious violation of state laws and regulations, resulting in endangerment to the health, safety and welfare of residents. Tenn. Code Ann. § 68-11-213(i)(2) and Tenn. Comp. R. & Reg. 1200-08-25-.05(4),(5).

Upon a finding by the Board that an assisted-care living facility has violated any provision of the Health Facilities and Resources Act, Part 2 – Regulation of Health and Related Facilities or the rules promulgated pursuant thereto, action may be taken, upon proper notice to the licensee, to impose a civil penalty, deny, suspend, or revoke its license. Tenn. Comp. R. & Reg. 1200-08-25-.05(4). The Board has established by rule a schedule designating the minimum and maximum civil penalties which may be assessed. Tenn. Code Ann. § 68-11-213(i)(2) and Tenn. Comp. R. & Reg. 1200-08-25-.05(4),(5)

Proceedings for disciplinary action against a facility are conducted in accordance with the Tennessee Administrative Procedures Act, Title 4, Chapter 5, of Tenn. Code Ann. Tenn. Comp. R. & Regs. 1200-08-25-.05(7). A Respondent in a disciplinary action is entitled to be represented by legal counsel, to personally appear before the Board, to present witnesses, to have subpoenas issued and to receive thirty (30) days' notice of the charges before being required to appear for a hearing. A Respondent who cannot afford legal counsel may be eligible for free or low-cost counsel. Tenn. Code Ann. § 4-5-101, *et seq.*

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#### STIPULATIONS OF FACT

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1. At all times pertinent hereto, River Oaks Place – Loudon, 1101 Grove Street, Loudon, TN 37774 has been licensed as an Assisted-Care Living Facility by the Board, having

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been issued license number **00000052** on August 24, 1998. Respondent has an active license with an expiration date of June 8, 2020.

2. From January 8, 2019 through January 9, 2019, the Department conducted a complaint and annual licensure survey at the Respondent facility.
3. Resident #2 was admitted to the facility in October 2018 with diagnoses of dementia with behavioral disturbances. Upon his admission, Resident #2's care plan reflected that he had no behaviors of anxiety or agitation. However, staff were to check on him every two (2) hours.
4. On or about October 5, 2018, Resident #2 had a screaming fit.
5. On or about October 24, 2018, Resident #2 attempted to elope and entered multiple resident rooms. Resident #2 was transferred to the secured locked unit.
6. On or about October 24, 2018, Resident #2 entered Resident #5's room and pushed Resident #5 to the floor. Resident #5 was taken to the emergency room with left arm and shoulder pain.
7. On or about November 11, 2018, Resident #2 became upset and attempted to fight another resident.
8. A physician order dated November 29, 2018 revealed that the physician discussed that Resident #2 needed a psychiatric evaluation and that the physician recommended a sitter.
9. A nurse's note also indicated that the family of Resident #2 was unable to provide a sitter. Resident #2's son refused to provide a sitter because he was unable to pay for that service. However, Resident #2's care plan did not include any new interventions of increased monitoring.
10. On or about December 16, 2018, Resident #2 was observed roaming the halls.

11. On or about December 22, 2018, Resident #2 exhibited restlessness, anxiety, and an "overall bad mood."
12. On or about January 6, 2019, Resident #2 was agitated. Resident #2 was observed yelling at other residents and slamming doors.
13. On or about January 9, 2019, the Facility advised Resident #2's son ("Son") that he would have to provide 24 hour sitter care for Resident #2 until alternative placement from the facility was found, or he would have to take Resident #2 home with family. Son stated that his Amerigroup case worker had not been able to find Resident #2 placement somewhere else due to behaviors.
14. On January 9, 2019, Son was notified that Resident #2 had to be discharged from the Facility due to not being appropriate for ACLF setting based on findings from survey. Son stated he did not have the money to provide a sitter and Resident #2 could not live with him. Son told the Facility that his Amerigroup caseworker told him to take Resident #2 to the hospital.
15. On January 9, 2019, Son discharged Resident #2 to an alternate location.
16. Surveyors interviewed Licensed Practical Nurse who indicated that Resident #2 had behavioral problems and that he was "given medication as needed."
17. The Facility made numerous contacts with Resident #2's Amerigroup case manager beginning as early as October 2018 requesting assistance with alternate placement for Resident #2. However, Resident #2 had not been discharged from the facility at the time of the survey in January 8, 2019
18. Based on medical record review, observation and interview, surveyors determined that Resident #2 displayed verbal and physical behaviors which posed a threat of imminent

- danger to himself and others.
19. The facility also failed to revise the care plan for Resident #2 to address his behaviors, as he continued to display verbal and physical behaviors which posed a threat of harm to himself and others.
  20. The facility also failed to discharge Resident #2 in an appropriate timeframe once Resident #2 exhibited verbal or physically aggressive behavior which posed an imminent physical threat to self or others began, and continued to display those verbal and physical behaviors.
  21. The facility also failed to provide documentation of quarterly reviews for Residents #1 and #5 who resided on the secured dementia unit.

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#### **GROUND FOR DISCIPLINE**

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The facts stated in the Stipulations of Fact section, *supra*, are sufficient to establish that grounds for the discipline of Respondent's Assisted-Care Living Facility license exist. Specifically, Respondent has violated the following statutes and/or rules, for which disciplinary action by the Board is authorized.

22. The facts stated in paragraph two (2) through twenty-two (22) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.08(1)(d)[ADMISSIONS, DISCHARGES, AND TRANSFERS], the relevant portion of which reads as follows:

- (1) An ACLF shall not admit or permit the continued stay of any ACLF resident who has any of the following conditions:

- (d) Exhibits verbal or physically aggressive behavior which poses an

imminent physical threat to self or others, based on behavior, not diagnoses.

23. The facts stated in paragraph two (2) through twenty-two (22) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.08(9)(b))[ADMISSIONS, DISCHARGES, AND TRANSFERS], the relevant portion of which reads as follows:

(9) An ACLF utilizing secured units shall provide survey staff with twelve (12) months of the following performance information specific to the secured unit and its residents at its annual survey:

(b) Ongoing and up-to-date documentation that each resident's interdisciplinary team has performed a quarterly review as to the appropriateness of placement in the secured unit.

24. The facts stated in paragraph two (2) through twenty-two (22) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(5)(a))[RESIDENT RECORDS], the relevant portion of which reads as follows:

(5) Plan of Care.

(a) An ACLF shall develop a plan of care for each resident admitted to the ACLF with input and participation from the resident or the resident's legal representative, treating physician, or other licensed health care professionals or entity delivering patient services within five (5) days of admission. The plan of care shall be reviewed and/or revised as changes in resident needs occur, but not less than semi-annually by the above appropriate individuals.

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**ORDER**

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**NOW THEREFORE**, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

25. The assessment of three (3) civil monetary penalties in the amount of five hundred dollars (\$500.00) each for a total assessment of one thousand five hundred dollars (\$1,500.00).

Payment shall be submitted to the following address within thirty (30) days of the effective date of this Order:

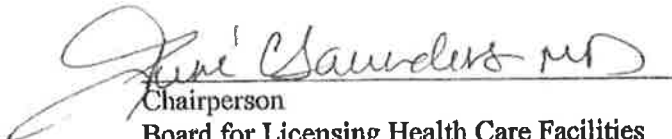
**Tennessee Department of Health  
Division of Health Care Facilities  
Attn: Eddie J. Stewart  
665 Mainstream Drive, Second Floor  
Nashville, Tennessee 37243**

26. Upon ratification by the Board, the listing of the public discipline, including deficiencies and civil penalties on the Disciplinary Action Report pursuant to T.C.A. § 68-1-114.

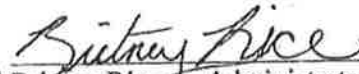


Upon the agreement of the parties, this **CONSENT ORDER** is approved as a **FINAL ORDER** by a majority of a quorum of the Tennessee Board for Licensing Health Care Facilities at a public meeting of the Board and signed this 7 day of October, 2019.

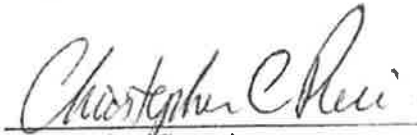
**ACCORDINGLY, IT IS ORDERED** that the agreement of the parties does hereby become the Final Order of the Board.

  
Chairperson  
Board for Licensing Health Care Facilities

**AGREED TO:**

  
Britney Rice, Administrator  
River Oaks Place - Loudon  
Respondent

9/24/19  
Date

  
Christopher C. Puri  
Counsel  
Bradley Arant Boult Cummings, LLP  
1600 Division Street, Suite 700  
Nashville, TN 37203

9/25/19  
Date

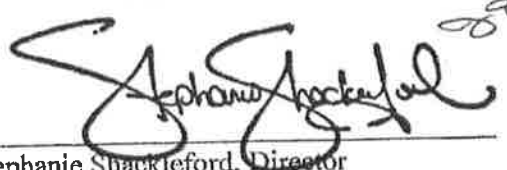
  
Caroline R. Tippens, BPR # 030375  
Senior Associate General Counsel  
Tennessee Department of Health  
665 Mainstream Drive, Second Floor  
Nashville, Tennessee 37243  
(615) 741-1611

10-07-2019  
Date

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### CERTIFICATE OF FILING

This Order was received for filing in the Office of the Tennessee Secretary of State,  
Administrative Procedures Division, and became effective on the 9<sup>th</sup> day of October, 2019.

  
Stephanie Shackelford, Director  
Administrative Procedures Division

### CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, River Oaks Place-Loudon, by and through its Counsel, Christopher C. Puri, Counsel, Bradley Arant Boult Cummings, LLP, 1600 Division Street, Suite 700, Nashville, TN 37203 by delivering same in the United States mail, certified return receipt 7013 1830 0000 5102 6095 and via United States Postal Service first class, with sufficient postage thereon to reach its destination.

This 10<sup>th</sup> day of October, 2019.

  
Caroline R. Tippens  
Senior Associate General Counsel

CCP Initial